



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Agriculture

☒ Preproposal Statement of Inquiry was filed as WSR 05-13-191; or☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or☐ Proposal is exempt under RCW 34.05.310(4).☒ Original Notice☐ Supplemental Notice to WSR _____☐ Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) WAC 16-157-220 Producer fee schedule

Hearing location(s):

Room 259

Natural Resources Building-2nd Floor

1111 Washington Street

Olympia, WA 98504-2560

Date: October 19, 2005 Time: 1 p.m.

Submit written comments to:

Name: Miles McEvoy, Organic Food Program

Address: P.O. Box 42560

Olympia, WA 98504-2560

e-mail mmcevoy@agr.wa.gov

fax (360)-902-2087 by (date) 5:00 p.m., October 19, 2005

Assistance for persons with disabilities: Contact

Julie Carlson by October 12, 2005

TTY (360)-902-1996 or (360)-902-1880

Date of intended adoption: October 28, 2005

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Chapter 16-157 WAC, Organic Food Standards and Certification, adopts the National Organic Program and provides certification for producer, processors and handlers wishing to obtain organic certification. The rule sets fees for obtaining certification and provides organic certification logos for those parties certified under the rule. Organic certification is also offered for retail food stores. The proposed amendments are necessary to improve the efficiency of the WSDA Organic Food Program and enable it to provide better service to organic producers.

The proposed rule amendments:

- Change the annual application deadline for organic producers from March 1 to February 1. An earlier application deadline will enable the WSDA Organic Food Program to review the renewal applications before the start of the field season.
- Remove the cap on producer certification fees. No producers are currently affected by the removal of the cap. The removal of the certification fee cap is being done to enable the program to recover the costs of providing organic certification to operations with over \$7,000,000 in sales.
- Change the transitional certification fee from \$5 per acre to \$50 per site. This change provides a more equitable method of assessing fees for providing transitional certification and actually will result in producers paying lower transitional certification fees.

Reasons supporting proposal:

The proposed amendments will enable the WSDA Organic Food Program to more:

- Efficiently review renewal applications because producers will submit them before the start of the field season; and
- Equitably recover the costs of providing organic certification to organic producers by removing the cap on producer certification fees and changing the method of assessing transitional certification fees.

The Washington State Department of Agriculture Organic Advisory Board supports the proposed amendments.

Statutory authority for adoption: Chapter 15.86 RCW and chapter 34.05 RCW**Statute being implemented:** Chapter 15.86 RCW**Is rule necessary because of a:**

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

DATE September 7, 2005**NAME** (type or print) John Swannack**SIGNATURE****TITLE** Acting Assistant Director**CODE REVISER USE ONLY**CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

SEP 7 2005

TIME

10:09

AM

WSR

05-18-089

PM

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Washington State Department of Agriculture

☐ Private

☐ Public

☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting.....Miles McEvoy	Olympia	(360) 902-1924
Implementation.. Miles McEvoy	Olympia	(360) 902-1924
Enforcement..... Miles McEvoy	Olympia	(360) 902-1924

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

RCW 19.85.030(1)(a) requires the department to prepare a Small Business Economic Impact Statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department analyzed the economic impact of the proposed amendments to WAC 16-157-220 and concluded that the cost imposed by the proposed amendments are "not more than minor" and do not have a disproportionate impact on small businesses, therefore, a formal SBEIS is not required. Changing the transitional certification fee from \$5 per acre to \$50 per site will actually reduce the transitional certification fees paid by producers.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes. A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: Please explain: The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).

AMENDATORY SECTION (Amending WSR 03-03-044, filed 1/10/03, effective 2/10/03)

WAC 16-157-220 Producer fee schedule. Producers who wish to apply for the organic food certification program must apply to the department each year.

(1) The cost per application shall be based on the following fee schedule.

(a) Renewal applicants -

Application fees must be based on the previous calendar year's sales of organic food. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the producer for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the producer may request a refund for the reduced fee. In addition, renewal applications postmarked after ((March)) February 1, must pay a late fee of seventy-five dollars. Renewal applicants that are adding additional sites to their organic certification must pay a new site fee of fifty dollars for each additional site.

(b) New applicants -

Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the producer for the additional fee. In the event that the current calendar year's sales are less than the estimate, the producer may request a refund for the reduced fee. In addition, new applicants must pay a one hundred dollar new applicant fee. New applicants that are seeking organic certification for more than one site must pay a site fee of fifty dollars for each additional site. The fee shall accompany the application.

SALES		ANNUAL FEE
\$ 0 -	\$ 15,000	.....\$ 200
\$ 15,001 -	\$ 20,000	.....\$ 225
\$ 20,001 -	\$ 25,000	.....\$ 280
\$ 25,001 -	\$ 30,000	.....\$ 335
\$ 30,001 -	\$ 35,000	.....\$ 390
\$ 35,001 -	\$ 42,500	.....\$ 470
\$ 42,501 -	\$ 50,000	.....\$ 560
\$ 50,001 -	\$ 65,000	.....\$ 670
\$ 65,001 -	\$ 80,000	.....\$ 835
\$ 80,001 -	\$100,000	.....\$1,000
\$100,001 -	\$125,000	.....\$1,150
\$125,001 -	\$150,000	.....\$1,300
\$150,001 -	\$175,000	.....\$1,450
\$175,001 -	\$200,000	.....\$1,600

SALES		ANNUAL FEE
\$200,001 -	\$240,000	.....\$ 1,750
\$240,001 -	\$280,000	.....\$ 1,900
\$280,001 -	\$325,000	.....\$ 2,050
\$325,001 -	\$375,000	.....\$ 2,200
\$375,001 -	\$425,000	.....\$ 2,450
\$425,001 -	\$500,000	.....\$ 2,700
\$500,001 -	\$750,000	.....\$ 3,000
\$750,001 -	(((\$7,000,000)) and up	..\$2,200 plus 0.11% of gross organic sales
((over	\$7,000,000	.....\$10,000))

(2) Transitional acreage fee - In addition to the producer application fee, each applicant must pay a fee of ((five)) fifty dollars per ((acre)) site for the land for which they are requesting transitional certification.